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TRACING IMPRINTS OF THE BORDER IN THE TERRITORIAL, JUSTICE AND WELFARE DOMAINS: A MULTI-SITE ETHNOGRAPHY

Abstract

Starting from the border as an ‘epistemic viewpoint’ (Mezzadra and Neilson 2013), we seek to achieve conceptual depth about the nature of contemporary bordering practices by combining and re-evaluating empirical data collected within different bordering domains. We build on Mezzadra and Neilson’s concept of the ‘proliferation of borders’ by extending our focus to the impact of borders on individuals, arguing that border crossers experience an ‘accumulation of borders’ as borders are ‘imprinted’ on their bodies through multiple and diverse encounters with various state agencies. By tracing the imprint of the border and its impact on the lives of border crossers in a range of contexts (the territorial, justice and welfare domain), we bring to light continuities in the governance of global mobility and the cumulative effects of borders that could not be captured by researching isolated, local sites within the nation-state.

Keywords

Border as Method; differential inclusion; bordering practices; imprinting; hierarchies of citizenship; global mobility; multi-sited ethnography.

Introduction

As mobility and migration stand high in political agendas and priorities and are conflated with concerns about crime and insecurity, border controls are increasingly embedded in structures and practices at and beyond the physical border (OMITTED, OMITTED, Brandariz-Garcia and Fernandez-Bessa 2017). From schools, hospitals and welfare agencies to the justice system, the workplace and the housing sector, both private and public actors are required to systematically check entitlements to public support and services, to access work or accommodation, or rehabilitation programs. In short, border controls have been outsourced to a range of institutions and actors, and their reach has been significantly expanded. While not every element of this emerging control system is directly linked to criminal justice as traditionally understood, Bowling and Westenra (2018a, 2018b) note that the ‘crimmigration control system’ – where ‘crimmigration’ (Stumpf 2006) refers to the convergence of criminal and immigration law and practice - works in tandem with criminal justice systems to delineate and define ‘suspect communities’. It is therefore a subject of increasing concern to criminological researchers.

As political philosopher Étienne Balibar (2004, 1) explains, borders are forms of defining and identifying people; as such they are ‘dispersed a little everywhere, wherever the movement of information, people, and things is happening and is controlled’. Mezzadra and Neilson (2013) refer to this dispersal of bordering functions as the ‘proliferation of borders’ and

emphasize their productive function. Borders play a crucial role in the ‘fabrication of the world’: ‘far from serving simply to block or obstruct global flows, [they] have become essential devices for their articulation’ (Mezzadra and Neilson 2013, 3). Borders in their multiplicity therefore create systems of differential inclusion (Mezzadra and Neilson 2011) produced by processes of illegalization and differential entitlement.

In this article we conceptualize bordering practices as expressions of sovereignty and mediators of relations between individuals and the state. We emphasize the productive nature of these practices, from a state perspective, to differentiate, stratify and govern populations, and consider the implications for border crossers. We argue that border control processes and practices not only ‘make people illegal’ (Dauvergne 2008); they create differential inclusion and have a cumulative effect. Drawing on Mezzadra and Neilson’s *Border as Method* (2013), we adopt and expand the conceptualization of borders as ‘epistemological viewpoints’. ‘Border as method’ is a technique of knowledge production that involves translation of research data across diverse bordering contexts in order to identify deeper theoretical connections, in contrast with ethnographic approaches that are typically embedded in a particular locale. Border as method therefore directs border control researchers to focus on ‘new relations of connectivity across discrete spaces and organizations of data’ (Mezzadra and Neilson 2013, 59) in order to achieve ‘depth through breadth’. By considering the border in this way, we hope to better understand and critique the processes through which bordering discourses and categories

(exterior/interior; us/them; center/periphery) contribute to reproduce marginality, subordination, exploitation and dispossession. Moreover, this conceptualization reveals the underlying connections of borders to other forms of surveillance, regulation and governance, and facilitates the broadening of the criminological focus to the continuities in these forms of governance and exercise of power.

We seek to make two key contributions to the existing border criminology literature (Aas and Bosworth 2013; Bosworth et al 2018). At the conceptual level, we explore the notion of ‘imprinting’ as a form of governance of global mobility. Focusing on the dispersed, hybrid and transnational nature of migration control and the traces they leave on the individuals subject to them, we chart the continuities and the cumulative effect of these bordering practices as a novel form of governance of human movement. At the methodological level, drawing on the notion of ‘borders as method’, we seek to develop tools within criminology to study the mechanics of contemporary forms of governance which while institutionally embedded within the nation-state transcends them. By amalgamating data from three different projects conducted in different jurisdictions, we highlight the advantages of multi-sited ethnographies to study bordering practices. The first of our original contributions in this article is to argue that borders are not only dispersed in time and space, but have a cumulative effect on individuals who cross them, which we describe as ‘imprinting’. Borders are sites where people on the move encounter agents of the state and are impacted

by the processes they employ to enact the border. As we demonstrate, these encounters leave traces, a barcode of sorts that can be read in countries of transit and destination by border officials, law enforcement, criminal justice system officials, and other state agencies. They can also have serious consequences for border crossers, such as immobilization in countries of transit, as well as removal and deportation from countries of destination. Previous border control research has considered how individuals may ‘embody’ the border through socio-cultural markers such as ethnicity and race (see Aguirre and Simmers 2008-9, Bowling and Westenra 2018). While these categorizations may be crucial in shaping an individual’s encounter with border officials, they exist prior to these encounters as primary social categories that can be ‘read’ directly from the body. Here we reverse this process to consider how the border imprints itself on individuals through the conferral of a legal status that is less visible, but will have lasting effects on the relationship between the individual and the state. Viewed from the perspective of border crossers, the imprint of their encounter with borders continues to produce experiences of differential inclusion as they go about their daily lives

In terms of methodological innovation, border as method favors the integration and reinterpretation of existing knowledge from previously unconnected sources as much as the collection of new empirical data. We combine findings from three different projects conducted in three different jurisdictions which are unified by the aim of understanding how border control

operates and through which mechanisms. Rather than concentrating on different domains within a single nation-state, we amalgamate data obtained from multiple jurisdictions as this approach allows us to trace the accumulation of borders and imprints we could not identify on a local level. Drawing from the multi-sited ethnography literature, we highlight the impact of nation-state contexts on specific forms of governance and the continuities in state practices of control in very different settings (Marcus 1995; Falzon 2009; Coleman and von Hellerman 2009). These unconnected multi-sited ethnographies allow us to bring to light associations between different sites and processes, and the impact of connections on situated subjects which cannot be accounted for by concentrating on a single site of intensive investigation. Although the projects we conducted separately were not designed a priori as multi-sited, their amalgamation at a later stage proved helpful for capturing global continuities in forms of mobility governance which despite being anchored within the nation-state transcend it. Such post facto multi-sited ethnography allowed us to follow the border wherever it manifests within and across domains and sites. Further details about methodology are included later in the sections reporting findings from the individual studies.

We explore the productive dimension of bordering practices in three different scenarios (the territorial domain, the justice domain and the welfare domain) and in three different localities (in the Western Balkans, in the UK, and in Australia, respectively), and trace their enduring imprints and

accumulative effects on border crossers. In drawing together apparently unconnected studies, we seek to achieve ‘depth through breadth’ while foregrounding continuities in the investigation of the contemporary exercise of state power. In each context we argue that bordering discourses and practices create distance, hierarchies and precarities, and in turn legitimize and underscore the rationale for enforcement practices – most notably territorial exclusion. By bringing the findings of the projects together, we aim to capture the complexity, extent and multi-faceted nature of bordering which each single project would not be capable of revealing. We begin our analysis with empirical observations from a territorial border at the edge of Europe.

The territorial domain: where global North meets global South

Contemporary border zones dividing the global South from the global North are spaces where the boundaries of differential inclusion are simultaneously enforced and contested (Borja and Castells 1997). As global mobility intensifies, these frontiers are key sites for enforcing geo-political and socio-economic boundaries through inclusion, temporary exclusion, or rejection and return of border crossers. Bordering practices target illegalized non-citizens at different and multiple points of intervention, in countries of origin, transit and destination. As we demonstrate below, in their encounters with border enforcers and state agencies people on the move are imprinted (or not – when

it suits the nation-state) with a multitude of permanent and more or less visible stamps. Every step of the way, as they encounter police, express intention to seek asylum, pause to rest and get funds to keep going, or when apprehended and deported to where they came from only to move forward again, these imprints adhere to border crossers. Like the mini barcode tags glued to travelers' suitcases, they are almost impossible to remove, and can be easily read at various checkpoints, such as immigration-criminal justice and welfare systems in the countries of destination. Increasingly deployed in the global South as well as the global North, these interventions are contested through border struggles - interactions of border crossers and agents of border control (border police, customs, and other government agencies). In this section we focus on accumulation of borders in the key transit countries on the Western Balkans migration route –Former Yugoslav Republic (FYR) of Macedonia and Serbia.¹ We investigate various strategies through which borders enable and interrupt human mobilities in this part of the world, with an aim to stratify and govern mobile populations. Imprints applied in countries of transit, we argue, assist in creating manageable flows of people that will ultimately take place in labour markets and asylum systems of the West. Importantly, they can also assist nation-states in removing unwanted non-citizens after they complete their migratory journeys.

In southeast Europe, the border police enforce the boundaries of the nations through which illegalized non-citizens transit towards Western Europe, but also of the nations of the global North that are ultimate beneficiaries of

practices of border externalization and stratification. Here, bordering practices and struggles between agents of border enforcement and people subject to border enforcement practices are hidden from our view, and more often than not remain out of focus of academic inquiry (OMITTED). However, imprints of their encounters with territorial borders are omnipresent, and a poignant reminder of the productive nature of contemporary borders.

In the Western Balkans, especially since the start of the ‘migrant crisis’ in 2012-2013, the articulation of global passages through bordering practices has never been more apparent. The border fence on the Serbian-Hungarian border is just one, although perhaps the most conspicuous example of ever-growing border assemblage in the region that followed the passage of thousands of illegalized non-citizens from Middle East and Africa through the Western Balkans, mainly FYR Macedonia and Serbia. According to FRONTEX (2017), the number of irregular border crossings on the Western Balkans route rose from 6,390 in 2012, to 764,038 in 2014. This influx generated multiple changes in border regimes that ultimately led to people’s (more or less provisional) immobility at European Union’s external borders, as demonstrated by our research in the region. Effective migration management has been identified as a crucial task for the EU candidate states of the Western Balkans, in particular Serbia and FYR Macedonia as they are located at the very heart of the Western Balkans migratory route. As we demonstrate below, driven by external and internal forces, the border regime in these two countries gradually shifted: from permeable during the first couple of years of the crisis,

to semi-permeable in late 2015, and a border shutdown in March 2016. As this change occurred, border crossers experienced accumulation of borders through multiple imprints attached to them by border police and other state agencies. Importantly, the people on the move increasingly faced immobilization, pushbacks, and forced removals by state agencies.

From the onset of the migrant crisis until its peak in 2015, the approach to irregular migration management in the region was largely a policy of *limited engagement* (OMITTED; Beznec et al. 2016). Law enforcement and specialized border police forces mostly ignored the influx of people from Iraq, Afghanistan, Syria and Africa, while strategies to prevent border crossings and/or returns were limited. While military-style pushbacks were deployed to prevent migrants to enter their territory as ‘border police [were]... simply pushing migrants back and forth [across the border], like a game of table tennis’ (participant 4, NGO, Serbia), once they were in FYR Macedonia and Serbia people on the move encountered suspended asylum procedure. As one NGO activist from Serbia explained: ‘Police are simply not processing them. I am not sure why. [People] are simply coming and going’ (participant 1, NGO). This approach enabled border crossers to quickly reach Hungary or Croatia, as the migration and asylum regime were largely suspended in the region. Indeed, agencies actively refused to imprint the label of asylum seeker on transiting non-citizens, as such outcomes were not deemed productive (or indeed necessary) for transiting states of the Western Balkans. Deadlines to complete the asylum procedure were frequently disregarded, to the extent that men,

women and children routinely left transit states before their claim was considered (participant 1, NGO, Serbia; participant 5, GA, Serbia; participant 30, GA, Kosovo; participant 38, INGO). As one participant from an international NGO working in the region pointed out, ‘people wait, and wait for a decision that never comes, and they simply leave’ (participant 9, INGO). An average stay of non-citizens in Serbia in early 2015 was approximately three weeks (Lukić 2016), while the pace of transit through FYR Macedonia was such that, by October 2015 the state agencies recorded only 50 asylum applications (Lilyanova 2016, 6) and granted only one asylum that year (Bez nec et al. 2016, 14). The pretence was apparent: illegalised non-citizens claimed asylum only when “caught” by police, yet with a clear intention to leave transit states as soon as possible; on the other hand, police processed them but with a minimum effort, simply waiting for unwanted “visitors” to move on:

A police officer told me that it is in their best interest – police’s best interest – not to do anything, and let people pass [through]. They want that. (participant 24, NGO, Serbia)

I do not understand what is happening lately. ... The only logical explanation is that [non-citizens] are not here long enough to ... apply for asylum [in Serbia]. Police obviously refuse to act on it. (participant 18, GA, Serbia)

This reluctance to apply imprints on border crossers was also underpinned by racism and nationalism of the local population, as the native population did not approve of people perceived to be racially different and dangerous in the country. Protests against asylum seekers’ centers in the region drew largely on

a perceived and imminent threat caused by ‘crimmigrant others’ (Aas 2011), as this interviewee recalled: ‘[T]here was a protest against the asylum centre [and] a local woman... said: “Now, close your eyes and imagine that someone rapes your mother, daughter, sister”’ (participant 2, NGO).

A significant policy shift occurred in late 2015, following strong anti-migrant rhetoric from some EU member states (see Rayner and Mullholand 2015). In June 2015, Hungary commenced building a fence along the Serbian-Hungarian border, while the EU Commission announced that all non-citizens that fail to obtain asylum in the EU will be returned to transit countries (Radišić et al. 2015, 68). These security-driven practices underpinned policy change to *non-entrée*, in which the majority of illegalized non-citizens were to be kept on the other side of the external border through (often violent) pushbacks at the territorial border (see Šalamon 2016). By not allowing the entry state agencies yet again refused to apply imprints on border crossers, except the one of an exclusion and removal. Crimmigration rhetoric that framed non-citizens as a threat to state security underpinned this development, as the following headline in Serbia’s tabloid newspaper illustrates:

Terrorists hide amongst migrants: Hundreds have already passed through Serbia, there is a fear that some are still in our country! (Telegraf 22 August 2015; for more examples see OMITTED 2017; Beznec et al. 2016)

Following these developments, during late 2015 and early 2016 borders on the Western Balkans migration route remained semi-permeable. Men, women and children who were able to prove they were citizens of Syria, Afghanistan or

Iraq – assessed to be ‘genuine refugees’ - were allowed to enter FYR Macedonia and Serbia, lodge their asylum claim, or transit towards the EU (Beznec et al. 2016). As the migration pressure continued, in March 2016 the borders of the Western Balkans transit states were officially shut down, leaving thousands of people stranded in FYR Macedonia and Serbia. Yet, the pushbacks and *non-entrée* policy were met with resistance among the stranded population. After the official closure, around 24,000 people passed through Serbia between March and August (Kingsley 2016), while FRONTEX estimated that nearly 123,000 illegal border crossings occurred on the Western Balkans route in 2016 (FRONTEX 2017).

Mezzadra and Neilson (2013, 143) argue that ‘[t]he temporality of migration is increasingly marked by the emergence of various zones and experiences of waiting, holding, and interruption that assume many institutional forms, among them camps and deportation facilities’. As the context of the Western Balkans highlights, such zones of waiting, holding, and interruption often have no walls, barbwire fences and wardens. These buffer zones at the fringes of the EU largely rest on the politics and policies of EU nation-states (Beznec et al. 2016, 22, 56), enforced in countries of transit. During the “crisis” the Western Balkans became a semi-periphery, a buffer zone in which mobile populations were housed and immobilized, stratified and gradually filtered through, through accumulation of borders and selective application of border imprints. In doing so, FYR Macedonia and Serbia have ‘proved to be a reliable partner for Europe’ (de la Baume and Surk 2016).

These policies, we argue, were never exclusively designed to seal the borders and prevent the entry of illegalized non-citizens. They were porous by design, as their productive function was to regulate the pace of migration through stratification and differential inclusion of border crossers. Importantly, these interventions were also set to assist in identifying those border crossers that should be removed from the countries of destination. The multiple effects of imprints, as we will demonstrate later in the paper, can and often do result in a removal of non-citizens, via immigration-criminal justice and welfare interventions.

Bordering practices in the Western Balkans served to articulate and stratify mobility flows. As Bojadžijev and Karakayali (cited in Heidenreich and Vukadinović 2008, 141) note, ‘Europe is not sealing itself off, rather a complex system is emerging, one of limitation, differentiation, hierarchies and partial inclusion of migrant groups’. The migrant “crisis” brought an excess of border crossers who were selectively filtered through.

The already precarious status of illegalized non-citizens is heightened through encounters at the territorial border in countries of transit, making apparent the accumulation of border imprints. Every time people on the move engage with border agencies or enforcers, either at border crossings or in the asylum centres, an imprint of such an encounter – or lack of - marks various practices of stratification, violence, expulsion, marginality, and governance. Yet, as Wendy Brown (cited in Mezzadra and Neilson 2014, 8) notes, ‘even

the most physically intimidating of these new walls serves to regulate rather than exclude legal and illegal migrant labor’.

In the next section, we trace the imprint of the border beyond the territorial domain by exploring how immigration controls amalgamate in novel ways with other forms of governance to police the borders of the nation.

Criminal justice imprints: demarcating the borders of citizenship and belonging

Amid the highly politicized and securitized field of migration controls, bordering practices aiming at identifying and rendering mobile populations governable are embedded in institutional structures and bureaucratic practices, including the criminal justice system. In a highly mobile and fluid contemporary world, national criminal justice institutions are key spaces where sovereignty is exercised. In turn, these are shaped by processes of globalization and mass mobility. As Sassen argued, globalization is an ‘in here’ phenomenon, it is constituted inside the national and local space (Sassen 2008, 74). Criminal justice institutions might be conceived as sites of bordering where global population flows are blocked, filtered, channelled through, and driven out.

Imagining the local criminal courts as global courts (OMITTED) brings to light the centrality of citizenship regimes in global stratification and in the

production of subjectivities. Citizenship has become an important category for sorting populations caught up by the criminal justice system (Aas and Bosworth 2013). In the UK, the presence of the ‘foreign national’ inside the criminal courts sets in motion a range of measures to identify, immobilize and route them through the immigration-criminal justice system, and makes apparent the place of these institutions in the architecture of controls to govern the mobility of the global poor. For some, the imprints of the border manifest and are reinforced through criminal justice practices, and can be consequential for both criminal justice and immigration law outcomes.

By drawing on interviews with court staff, observations of court proceedings and analysis of files involving individuals identified as foreign nationals,² in this section we look at the ways in which the border operates inside the courtroom. The imprints of the border pop up continuously in defendants’ files and hearings, alerting criminal justice actors about their ‘foreignness’ and shaping the outcome of the criminal case. Even before cases reach the court, border control practices filter the cases that reach the court. As inland border policing becomes enmeshed in public policing (OMITTED; Armenta 2017), the police routinely work in cooperation with Immigration Enforcement to route non-British suspects through criminal justice or immigration enforcement pathways. Both immigration policies and policing practices can shape the court docket by making certain national groups visible and thus subject to criminalization. Asked about fluctuations on the foreign national clientele of the magistrates’ court over time, a magistrate speculated

about the impact of EU enlargement in the early 2000s on the increase numbers of Eastern Europeans passing through the court: ‘Well that was a pattern that occurred over the last sort of year’, he reckoned, as

Very rarely did we send, we see Eastern Europeans, or very rarely I see Eastern Europeans until the changes in the rules for coming into the country. Then there seemed to be a sudden increase (Interview Magistrate 1).

The operation of the border as a regulatory mechanism for enabling certain national groups (and blocking others) shapes the national and determines who appears before the court.

The cumulative effect of bordering practices adds another layer of differentiation to the highly stratified space of the court. The crossing of the geographical border changes people’s markers of identity. Reflecting the hierarchies within citizenship regimes and the racialization of citizenship (Romero 2008), for some people foreignness constitutes a stigma. A stigma is, according to Goffman (1963), an attribute which becomes discreditable in particular social contexts and thus is highly contingent. It is a relationship between a personal attribute and a social stereotype. Being a foreigner for some people is a master status and a discredited social identity. In some of the cases observed in this research, those involved were conscious of their tainted social identity. In one of them, involving two young men originally from Poland accused of breaking into a car, one of the defendants mentioned in his pre-sentence report that he was ‘intimated that his actions may evoke fear in the community and placed Polish people in a negative light’. His co-defendant,

who was also accused of criminal damage, justified his behavior as a reaction to the racist abuse he suffered from the owners of the property. Although according to the law³ the civic status of these defendants as non-citizens had formally little bearing in the criminal case against them, they were well aware about the currency of images and ideas socially ascribed to their identity as Polish. The law operates in complex ways to produce the differential inclusion of certain groups. The lifting of migration controls has apparently contributed to the racialization of Polish and other Eastern European citizens, and to create complex forms of civic and social stratification (Fox et al, 2012), which are apparent inside the courtroom.

As another manifestation of the imprint of borders, ‘foreignness’ surface in court proceedings and are legally relevant in certain circumstances. Mobility represents a challenge for law enforcement (Aas and Gundhus 2016). In an era of globalization, the fluidity of people and goods conflicts with demands in the law for stability and fixity to a place. People involved in cross-border occupations (such as lorry drivers), who have transient lives in the country with family and friends elsewhere and whose history and identity are not recorded in official records (criminal, welfare, educational, financial, etc.), raise distinctive challenges to criminal justice adjudication. The absence of information impairs sentencing and often casts doubts on the individual’s past, as this probation officer implies in a pre-sentence report on a young man from Vietnam who pleaded guilty to cultivation of cannabis: ‘as far as one can establish, this is the defendant’s first conviction, however it is always

frustrating to the report writer that we do not have access to any potential antecedents overseas'. A prosecutor who works at the magistrates' court agreed: 'I think if somebody has recently come to the country and they appear to be of good character... I would probably just mention "no previous convictions in this country", you don't know really' (Interview Prosecutor 1).

Under these circumstances, pre-trial detention and imprisonment acquire the specific function of making transient and illegalized populations identifiable and governable (OMITTED). In denying her bail, the magistrates told a woman charged with hitting another and caught at Luton airport boarding a flight bound to Romania: 'you do not have family ties or any other good reason for staying in one place'. By immobilizing these groups through confinement, the criminal justice process makes them legible and serves their 'documentation' (Bosworth 2012, 133). A probation officer working at the magistrates' court admitted this collateral function of the criminal justice involvement:

We have, for example, a large influx of Romanian offenders, who generally are being tied up at the moment. And over a relatively short [period], quite a number of them are repeat guests within the system, developing quite large criminal profiles. We are therefore getting better profiles on some nationalities and groups compared to others. We are getting better in a perverse way (Interview Probation Officer 1).

Criminal courts are not immune to immigration policies and imperatives.

Probation officers and court clerks are routinely required to liaise with immigration enforcement bureaucrats to ascertain the immigration status of defendants and to give away information about criminal convictions.⁴ Once a

person is criminally charged, illegality and deportability can take center stage in the construction of a criminal case (Lynch 2015). A criminal conviction triggers deportation,⁵ and deportability may influence sentencing and post-sentencing. Appealing to pragmatism, defense counsel would argue that deportability makes imprisonment futile because the parallel immigration system will deal with the person. On the other hand, the prosecution would cast doubts on the automatism of deportation, as this prosecutor explained:

[The defendant's deportation is] dealt with so separately, and there's never really any guarantee that someone is going to be deported. If the police say to us, 'he's probably going to be deported,' I think we just proceed on the basis that they're not because we never really have that concrete information that they're going to be (Interview Prosecutor 1).

On the other hand, deportability shapes post-sentence supervision⁶ because deportable prisoners are not deemed to be integrated back into society and must be kept under watch in preparation for their departure (Kaufman 2015).

Illegalization and precarious status contribute to a range of social, welfare and economic problems which in turn lead to criminalization and pose challenges to the everyday work of the courts. While the regular court's clientele endures the evil of social marginality, precarious status, language barriers and lack of social and family networks compound matters for foreign nationals.⁷ A growing population of civically and socially marginalized people reaches the criminal courts posing distinctive legal and logistical challenges to court operators. The criminal justice system is premised on a minimum level of social inclusion, through formal citizenship. Without a stable income and

residence, and with no access to public welfare, people with precarious status are 'dead ends' in this system. Sentencing options are restricted, as a local barrister explained:

The judges and the criminal justice system have serious restrictions to deal with this population [of people with irregular migration status, without family, address, regular work]. There are options not opened to them. The only option is to free them or to send them to prison, no option of granting a community order or a suspended sentence (Interview Defence Lawyer 1).

Because some foreign nationals are not eligible to welfare support, post-sentence supervision can be ineffective for achieving social reintegration and curbing reoffending. The privatization of the probation service in England and Wales whereby post-sentence supervision of offenders in the community has been outsourced to private companies (Robinson 2016) might exacerbate this problem. As a probation officer who works at the crown court admits,

If they are not deported at the end of sentence, they are transferred to the CRC [Communities Rehabilitation Companies] for supervision in community... Generally, they are not granted public funds (housing, training, unemployment benefits) so there are no incentives for private companies to work with this population because they are likely to miss performance targets (Interview Probation Officer 2).

According to this practitioner, because private companies are measured by performance targets (including the reduction in reoffending among the individuals they supervise), the low prospect of rehabilitation among this group makes them unattractive to CRCs.

Borders leave imprints on individuals which are consequential for criminal justice adjudication, and in turn have a cumulative effect which

manifests well beyond the court appearance. Criminal justice practices, we posit, bolster social and geographical borders by enabling geographical exclusion, thwarting civic incorporation and potentially reinforcing socio-economic inequalities. In the next section, we turn our attention to the administration of welfare support of asylum seekers in Australia tracing the imprints of the border in the operation of this bureaucratic process.

Bordering through welfare surveillance: the enduring imprint of illegalization

Restricting the distribution of resources within the nation state to legal members through ‘welfare nationalism’ (Barker 2015) is productive for governments in defining the boundaries of citizenship. The manipulation of welfare entitlements through systems of ‘creative civil exclusion’ (Bowling and Westera 2018b) can act as an internal bordering mechanism, serving both to reinforce the boundaries of social membership (a symbolic function) and to manufacture ‘voluntary’ departures (OMITTED).

For asylum seekers, arrival in Australia by sea without a visa, creates an imprint of imputed illegality that conditions their ongoing relations with the state. This is exemplified in the operation of the Status Resolution Support Service (SRSS)⁸ that supports asylum seekers living within the Australian community. So-called ‘illegal maritime arrivals’ – known in official circles by the dehumanizing acronym ‘IMA’ – carry the stigma of their illegalized border

crossing and have been subjected to extraordinarily punitive policies. The term ‘IMAs’ will be used in this discussion as a reminder of the powerful and accumulating imprint the territorial border has made on these individuals on their journey through the asylum determination system. In common with the previous sections, we will see that the welfare-based bordering practices discussed here make this category of non-citizens identifiable and governable, deliberately create precarity, and produce criminalization and illegality.⁹

The SRSS scheme was introduced in 2015 following a gradual shift away from mandatory detention for all IMAs. Asylum seekers who are not detained live in the community on short term, renewable bridging visas (BVEs). IMAs have severely restricted entitlements but, along with other BVE holders experiencing hardship, they may be eligible for SRSS support if they have not been granted work rights or have been unable to obtain employment. Both work rights and financial support are withdrawn after a ‘double negative’ result involving rejection of an asylum application at both the first instance and review stage.

The provision of SRSS support is contracted out by the Department of Immigration and Border Control (DIBP) to non-government welfare agencies on the proviso that services be provided ‘at no greater level’ than for the wider population (Interview Government1). Most IMAs will be on the lowest band of support (Band 6), receiving 89 per cent of the minimum social security benefit available to Australian citizens, placing them well below the poverty line (Jesuit Social Services 2015). Individuals with serious health problems or

other recognized vulnerabilities receive additional casework support on Band 5. Associated with the different support bands are different levels of control. The highest level of support (Band 1) includes unaccompanied minors in ‘community detention’ who reside in designated accommodation under close supervision. SRSS recipients on Bands 4 to 6, while receiving less direct supervision, must nevertheless sign a ‘code of behaviour’ contract, discussed further below.

The scheme is marked by extreme complexity, uncertainty and discretion. NGOs report frequent delays in renewing the bridging visas that provide eligibility for support. In addition, community workers argue that hardships have been deliberately designed-in to the system:

I mean, it feels to me that the system works basically to manage risk for the department, to ensure that the people who are under that system do not kill themselves. And beyond that, the actual support, or I guess, welfare provisions, are very minimal. (Interview NGO9).

The stated reason for the introduction of the SRSS is to encourage asylum seekers to stay in touch with immigration authorities while their applications are finalized. As one SRSS provider explained: ‘The end game ... isn’t the client. The end game is the status being resolved’ (Interview Government2). The welfare support system is therefore organized around a bordering logic, and represents an accumulation of borders in which the endgame of possible removal is perpetually in play. Providing early information to those on a ‘negative pathway’ to let them know their situation is ‘not looking good’ was said to be routine (Interview Government5). While these individuals are

judged to have evaded control at the border, the imprint of their illegalized border crossing shapes bureaucratic systems designed to effect their eventual expulsion under the guise of welfare support. One interviewee described departmental communications with asylum seekers as ‘paper intimidation’ designed to convey the message ‘trip up and you’re out’ (Interview Health7).

Neither immigration officials nor NGO informants expressed the view that encouraging premature returns was an explicit objective of the SRSS. However, several interviewees, including this community worker, were prepared to speculate: ‘I’ve got no evidence for it being a strategy. Clients definitely think it is’ (Interview NGO7).

Another interviewee stressed instead the powerful symbolic function of restricting access to services: ‘I think it’s very much about notions of citizenship and who’s Australian and who’s not’ (Interview NGO8). While DIBP informants all claimed that the scheme’s purpose was to support applicants through the asylum process, one acknowledged that the potential for withdrawal of support provided a mechanism of control:

Where it gets a little bit more hard-edged is where someone has had the negative decisions, and they are in that position where they have to contemplate a voluntary return, and what level of support we may or may not provide to them at that point. (Interview Government1)

The combination of repeatedly providing information about departure while withdrawing material support creates systemic conditions of extreme precarity, as recognized by this SRSS service provider:

The department won’t necessarily instruct or enforce someone to leave, but they will say –“You need to begin making arrangements”. But the position of limbo that that person is then in ... is precarious to say the least’ (Interview Government2).

The accumulating effect of denial of services to this highly surveilled group was seen as a 'pretty clear indicator' that 'we want you to leave and if you stay it's going to be hard as hell' (Interview NGO10). As an act of resistance some asylum seekers reportedly refused SRSS support that was only offered on the condition that they take steps to leave (Interview NGO7).

While some participants speculated that the system might operate in a way that encourages departures, they were less inclined to accept that such deprivations actually produced decisions to leave. One health worker who said that it was 'obvious' and 'fairly explicit' that measures such as denying work rights, family reunion or access to services were 'all about returns', was nevertheless unaware of any clients who had decided to leave on those grounds (Interview Health8). A community worker agreed that 'in my experience, it's not often that people leave' (Interview NGO9). And this immigration lawyer noted: 'You're throwing more horrific circumstances at them. And my experience is not that they return home. It's just - they go mad' (Interview NGO4). Where 'voluntary' departure did occur, the reasons cited most often by research participants were a desire for family reunification, lack of work rights or opportunities, and medical crises.

Even if the outcomes from the SRSS scheme are unclear, the system is productive for government in creating a network of surveillance and control that renders 'IMAs', who are indelibly imprinted with the trace of their first encounter with the Australian border, identifiable and governable within the community. One community worker noted: 'It is a very blurred line between

surveillance and – I mean; this is not even welfare. This is just going through certain bureaucratic processes to access services’ (Interview NGO9). SRSS caseworkers contracted to provide personal support for asylum seekers are coopted into this surveillance system. Requirements to report to DIBP can be triggered by major health events, unaccompanied minors missing school, or SRSS recipients being a victim, perpetrator or witness to a crime.

On top of these stringent visa conditions, an enforceable code of behavior was introduced in 2013. The preamble to the Explanatory Statement¹⁰ reads: ‘The Government has become increasingly concerned about non-citizens who engage in conduct that is not in line with the expectations of the Australian community’. This suggests that the introduction of the code was aimed at publicly reinforcing the symbolic boundary between those who are perceived to adhere to ‘Australian values’, and those who are not.

In a move that illustrates the accumulating effects of borders, asylum seekers are now required to sign the code of behavior to be eligible for a bridging visa. This injects a quasi-criminal dimension welfare provision for this group. During the implementation period, SRSS caseworkers were required to encourage their existing clients to sign the contract, further compromising their role as service providers. No statistics are published about the operation of the code. One government informant said he was aware of ‘only one or two cases’ where bridging visas were cancelled (enabling removal) for non-criminal breaches of the code (Interview Government1). However, legal advisors feared the introduction of the code reinforced the

threat of re-detention that hung over the heads of their clients, greatly increasing their precarious status in relation to the state. Even without the code, one advocate noted: ‘People say sometimes they’ve been re-detained on the smallest, stupidest little things. You’d have to detain half the country if that was – if these things were criminal offenses’ (Interview NGO10). This threat was believed to be a more powerful incentive for ‘voluntary’ departure than welfare restrictions, although many asylum seekers still resisted until the point of re-detention.

The SRSS scheme operates as an internal bordering practice, mediated through federal welfare provision and backed up by the sanction of detention. The existence of a separate welfare scheme for asylum seekers who bear the imprint of their irregular crossing of the Australian border provides a powerful mechanism of control and surveillance that is productive for government and reflects the accumulation of borders. It renders governable a group of illegalized non-citizens who would previously have been detained throughout the entire asylum determination process. It enacts a powerful form of ‘inclusive exclusion’ (Aas 2011, citing Agamben) that prepares the ground for physical exclusion when that becomes legally possible. As a system of welfare surveillance, it has the practical effect of generating compliance in circumstances of sustained legal and material precarity, and also projects sovereign power symbolically by demarcating the boundary between those who are, and are not yet, accepted as ‘Australians’.

Conclusion

In this article, we combined the theoretical insights offered in *Border as Method* with a series of grounded empirical analyses at multiple sites, to advance socio-legal and criminological enquiries about the governance of global mobility both substantively and methodologically. In so doing, we sought to achieve ‘depth through breadth’ and identified continuities across case studies by tracing the imprint and cumulative effects of borders on the material lives of border crossers. Our analysis has demonstrated the productive function of borders as methods of governance, expressions of sovereignty and mediators of relations between non-citizens and states. Our three different case studies show how bordering practices leave imprints on individuals that accumulate across different border domains. Their cumulative effect has been generated by a range of interventions and actions of state agents over a significant period of time, and has not been linked to one person or site. Rather, we argue that accumulation of borders leave imprints that have significant impact on groups of people in domains we analysed: border crossers, non-citizens, and asylum seekers. In three separate case studies outlined above, we demonstrate how imprints render novel forms of governance of human movement in countries of transit and destination, to produce practices of stratification, removal, marginality, detention and differential inclusion.

As mass human mobility becomes a distinctive aspect of our globalized world, the ever more stringent controls over the mobility of the persecuted and the global poor bring to the fore planetary interconnectivities and highlight geo-political dimensions in the operation of ‘national’ institutions. These controls not only make national boundaries visible – and painful for some - but also shape subjectivities and life chances as the legal, social, economic and political imprints of the border follow border crossers to produce hierarchies of citizenship. Vice-versa, as we showed, geo-political borders map onto and depend on social categories that divide up and stratify human beings, like race, class, gender, and nationality. In advocating for ‘globally-aware’ and ‘integrative’ methodologies, we make the case for the importance of expanding disciplinary and geo-political boundaries in the study of migration control.

By treating the border as an epistemological device, we aimed to enhance understanding of the mechanics of contemporary forms of governance that produce hierarchies of differential inclusion in a range of contexts. Although we are cautious about drawing strict comparisons across heterogenous sites and practices, the paper sought to bring to light continuities in the governance of global mobility. The advantage of multi-sited ethnography, as demonstrated in this article, is in tracing continuing and cumulative effects of borders that could not be captured by researching isolated, local sites within the nation-state. We also believe the methodologies we have used shed light on increasingly pervasive practices of contemporary

governance that are exercised, not only through border controls, but also across other surveillance and regulatory regimes. In doing so, we strived to develop methodological tools within criminology to study control practices which, although anchored in the local and the national, transcends them. By bringing together findings from different border control projects, we hope to open new creative ways to study the mechanics of bordering practices. We therefore advocate broadening the focus of criminology to incorporate the study of coercive and in/exclusionary power wherever it occurs.

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¹ This section draws on interviews conducted in transit countries in the Western Balkans migratory route – Serbia, Croatia, Kosovo and FYR Macedonia. The semi-structured interviews (n=47) with various government agencies and non-governmental organizations in the region are a part of a larger research project on mobility and border control in the Western Balkans, conducted from 2013-2015, funded by a research seed grant from University of New South Wales.

² This section draws from data collected for the project 'Foreigners before the criminal courts: immigration status, deportability and punishment', generously funded by the British Academy (Omitted). This project was conducted between March and September of 2015 in two English

criminal courts and aimed at exploring the relevance of migration status and citizenship for criminal justice adjudication. It involves observations of court hearings related to individuals who were identified as foreign nationals through references to their nationality or immigration status. At a subsequent stage, cases of interest were followed through until completion and their respective files retrieved and analysed. The project also involved interviews with different actors, including prosecutors, judges, defense lawyers, probation officers and interpreters.

³ EU law exempts European Economic Area (EEA) nationals from certain migration controls applicable to ‘third country’ nationals.

⁴ Criminal courts are obliged to notify the Home Office when they impose a sentence triggering the automatic deportation of the convicted defendant. Nowadays, this exchange of information is automatized.

⁵ Under UK law, a criminal conviction may trigger deportation in the following circumstances: criminal courts may recommend deportation following a criminal conviction of a foreign national (section 6(2), Immigration Act 1971); non-EEA foreign national offenders who have been convicted to a minimum term of 12-month imprisonment or for a serious offense are automatically liable to deportation (section 32(1), UK Border Act 2007); finally, the Home Secretary could order the deportation of a foreign national offender under the ‘conducive to public good’ ground (section 3(5)(a), Immigration Act 1971).

⁶ Since the partial privatization of the probation service and the consequent distribution of cases between private companies (Community Rehabilitation Companies) and the National Probation Service, cases involving foreign nationals due to be deported have been retained in the public sector together with high harm cases and cases where there is exceptional public interest and where there is a risk of seriously harmful reoffending.

⁷ In 2016 in London, 61 per cent of rough sleepers were foreign nationals. Westminster City Council (2016), ‘Rough Sleeping in Westminster. Evidence Base’. London, Westminster City Council. Available at:

<http://committees.westminster.gov.uk/documents/s19953/Appendix%203%20-%20Rough%20Sleepers%20Evidence%20Base%20FINAL.pdf>

⁸ Department of Immigration and Border Protection, *SRSS Programme*. Available at: <https://www.border.gov.au/Trav/Refu/Illegal-maritime-arrivals/status-resolution-support-services-programme-srss>

⁹ This section draws on 28 interviews conducted in Melbourne, Australia from 2015 to 2017 with service providers, immigration officials and community organizations that provide legal and material support for asylum seekers. The interviews were conducted by one of the authors as part of the Australian Research Council Future Fellowship project ‘Globalisation and the policing of internal borders’ (FT140101044).

¹⁰ Australian Government. *Migration Amendment (Bridging Visas—Code of Behaviour) Regulation 2013* Explanatory Statement available from <https://www.legislation.gov.au/Details/F2013L02102/Explanatory%20Statement/Text>